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28 December 1992

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HUMAN RIGHTS COMMITTEE

Comments of the Human Rights Committee*

Republic of Bosnia-Herzegovina

A. Introduction

1. Deeply concerned by recent and current events in the territory of the former Yugoslavia affecting human rights protected under the International Covenant on Civil and Political Rights; noting that all the peoples within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant; and acting under article 40, paragraph 1 (b) of the Covenant; the Committee, on 7 October 1992, requested the Government of the Republic of Bosnia-Herzegovina to submit a short report on the following issues in respect of persons and events now coming under its jurisdiction:

(a) measures taken to prevent and combat the policy of "ethnic cleansing" pursued, according to several reports, on the territory of certain parts of the former Yugoslavia, in relation to articles 6 and 12 of the International Covenant on Civil and Political Rights;

(b) measures taken to prevent arbitrary arrests and killings of persons, as well as disappearances, in relation to articles 6 and 9 of the International Covenant on Civil and Political Rights;

(c) measures taken to prevent arbitrary executions, torture and other inhuman treatment in detention camps, in relation to articles 6, 7 and 10 of the International Covenant on Civil and Political Rights;

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* Adopted at the 1205th meeting (forty-sixth session), held on 6 November 1992

(d) measures taken to combat advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence, in relation to article 20 of the International Covenant on Civil and Political Rights.

2. Pursuant to that request, the Government of Bosnia-Herzegovina submitted a background paper dated August 1992 on the violations of human rights that had occurred on the territory of the Republic, which was considered by the Committee at its 1200th meeting, held on 3 November 1992. The Republic of Bosnia-Herzegovina was represented by Professor Muhamed Filipovic, Vice-President of the Academy of Science and Art of the Republic of Bosnia-Herzegovina, Member of the Assembly of the Republic of Bosnia-Herzegovina, Member of the State Delegation of the Republic of Bosnia-Herzegovina at the International Conference on Former Yugoslavia; Dr. Kasim Trnka, Member of the Constitutional Court of the Republic of Bosnia-Herzegovina, Member of the State Delegation of the Republic of Bosnia-Herzegovina at the International Conference on Former Yugoslavia and Mr. Mustafa Bijedic, Minister Counsellor, Chargé d'affaires, Mission of the Republic of Bosnia-Herzegovina to the United Nations Office at Geneva. The document submitted was supplemented orally in detail and in depth in the perspective of the particular areas of concern on which the Committee had requested a report.

3. The Committee notes that by complying with the Committee's request to submit a report and by sending a delegation before it, the Republic of Bosnia-Herzegovina has confirmed its succession to the obligations undertaken under the International Covenant on Civil and Political Rights by the former Socialist Federal Republic of Yugoslavia in respect of the territory forming part of the Republic of Bosnia-Herzegovina.

B. Positive aspects

4. The Committee welcomed the delegation's affirmation that the Republic of Bosnia-Herzegovina considers itself legally responsible for whatever has taken place not only in that part of its territory on which it has factual and effective control but also in other parts of its territory. The Committee has also taken note of the measures taken to combat and prevent violations of human rights, in particular, measures to ensure that the arrest and detention of persons are carried out only by the legal authorities and not by uncontrolled individuals; the demarcation of legal responsibility between the military and civilian police authorities; the replacement of commanders who have been responsible for violations; and the disbanding of groups and units which have been responsible for violations. The Committee has also taken note of the measures taken to protect the person and property of Serbs.

C. Factors and difficulties impeding the application of the Covenant

5. Since Bosnia-Herzegovina became a separate State, a significant part of its territory has remained out of its control and has been subjected to military action entailing massive human rights violations resulting in loss of life, torture, disappearances, summary executions, rapes and general

ill-treatment of persons. The delegation stated that much of this was the result of the action of outside forces and uncontrolled groups and individuals.

D. Principal subjects of concern

6. The Committee expressed its concern at the large number of killings, arbitrary arrests, detentions, the operation of prisons by private persons and the general mistreament of persons.

Recommendations

7. The Committee recommends that the Republic of Bosnia-Herzegovina formalize its succession to the Covenant by submitting the appropriate notification to the Secretary-General of the United Nations. The Committee recommends that the measures already taken by the Republic should be further intensified and systematically monitored so as to ensure that "ethnic cleansing" does not take place, whether as a matter of revenge or otherwise; that prisoners are not taken for the purpose of eventual exchange of prisoners; that all places of detention are officially proclaimed; that records of all people detained are kept and made public; and that such places of detention are open to visits by the International Committee of the Red Cross and the families of the people detained. All places of detention that do not comply with these conditions should be immediately dismantled. Administrative arrangements should be made to enable persons to retrace members of their family who have disappeared and prompt investigations should take place to bring all those responsible for violations to trial.

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HUMAN RIGHTS COMMITTEE

COMMENTS OF THE HUMAN RIGHTS COMMITTEE*

Croatia

A. Introduction

1. Deeply concerned by recent and current events in the territory of the former Yugoslavia affecting human rights protected under the International Covenant on Civil and Political Rights; noting that all the peoples within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant; and acting under article 40, paragraph 1 (b) of the Covenant; the Committee, on 7 October 1992, requested the Government of the Republic of Croatia to submit a short report on the following issues in respect of persons and events now coming under its jurisdiction:

(a) measures taken to prevent and combat the policy of "ethnic cleansing" pursued, according to several reports, on the territory of certain parts of the former Yugoslavia, in relation to articles 6 and 12 of the International Covenant on Civil and Political Rights;

(b) measures taken to prevent arbitrary arrests and killings of persons, as well as disappearances, in relation to articles 6 and 9 of the International Covenant on Civil and Political Rights;

(c) measures taken to prevent arbitrary executions, torture and other inhuman treatment in detention camps, in relation to articles 6, 7 and 10 of the International Covenant on Civil and Political Rights;

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* Adopted at the 1205th meeting (forty-sixth session), held on 6 November 1992

(d) measures taken to combat advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence, in relation to article 20 of the International Covenant on Civil and Political Rights.

2. Pursuant to that request, Croatia submitted a short special report entitled "Report on measures taken to prevent criminal acts perpetrated in violation of the human rights and freedoms in the Republic of Croatia", which was considered by the Committee at its 1201st and 1202nd meetings, held on 4 November 1992. The Republic of Croatia was represented by Mr. Smiljan Simac, Assistant Minister of Foreign Affairs of the Republic of Croatia, Head of Delegation; Professor Dr. Budislav Vukas, Faculty of Law Zagreb, Member of Delegation; Professor Dr. Davor Krapac, Faculty of Law Zagreb, Member of Delegation. The report was supplemented by an oral introduction by Mr. Simac, and by responses by various members of the delegation to the questions and observations of members of the Committee.

3. On 12 October 1992, the Republic of Croatia notified the Secretary-General of the United Nations that it had succeeded, as from 8 October 1991 (the date of its proclamation of independence), to various human rights treaties, including the International Covenant on Civil and Political Rights.

B. Positive aspects

4. Certain factors encouraging to the guaranteeing of human rights were noted. The Republic of Croatia had attained statehood after democratic parliamentary elections in 1990. The new Constitutional Law of Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities, adopted in December 1991 and amended in April 1992, incorporated United Nations treaty obligations on human rights. An office for inter-ethnic relations had been opened, which would have branches in various districts of Croatia and a wide-reaching mandate. The Croatian delegation confirmed that, in the view of the Government, the only proper use of ethnic identity was to ensure that ethnic minorities received the guarantees to which they are entitled under article 27 of the Covenant. It was also noted that certain charges had been brought in the courts against persons who were accused of crimes against civilians, crimes against prisoners of war and the crime of genocide. The three prisoners of war camps in Croatia were under the control of the Ministry of Defence and open to the International Committee of the Red Cross. The Government had condemned the policies of the ultra right paramilitaries and political parties and was conducting investigations into the activities of certain members of parliament belonging to the Croatian Right Party.

C. Factors and difficulties impeding the application of the Covenant

5. Since its independence, the territory of the Republic of Croatia has been subjected to large scale military action. This had resulted in massive violations of human rights, including significant loss of life, torture, disappearances and summary executions, with entire towns destroyed and populations displaced. Because of the conflict in the neighbouring Bosnia-Herzegovina, Croatia had also received very large numbers of refugees.

6. The representatives also informed the Committee that Croatia controlled only about three quarters of its territory, the remainder being under the authority of UNPROFOR. The delegation conceded that there had been periods during the hostilities on its territory when public order had broken down and there had been an inability to control ethnically based violence against Serbs. It accepted legal responsibility for those events.

D. Principal subjects of concern

7. The Committee was concerned with the preamble to the Constitution, whereby the Republic of Croatia is defined as "the national state of the Croat nation and a state of members of other nations and minorities". Concern was expressed about long-standing discrimination against, and harassment of, ethnic Serbs residing within Croatia. In particular, the circulation of lists of persons grouped on the basis of their ethnic origin was to be deplored. Purges had been permitted of the public services and the police had become identified with ultra right nationalism. Members of the military were often seen in public, including in Bosnia-Herzegovina, wearing fascist emblems. Serbs had been removed from their jobs in the press and there had been widespread arrests and disappearances. Persons were being held in deplorable conditions in places of detention in Bosnia-Herzegovina, which were under the control of the Croatian army or local Croatian military factions who received the backing of the Republic of Croatia. The international responsibility of the Republic of Croatia was engaged in relation to these events.

8. The Committee believed that there were in Croatia undesignated places of detention where persons were held, often by private groups. Many persons for whom there was no legitimate cause of detention were unlawfully held. Sometimes they were deprived of their liberty simply in order to be able to effect exchanges for Croatians held as prisoners elsewhere.

E. Recommendations

9. The Government of Croatia is urged to act vigorously against all manifestations of racial hatred. Public condemnation should be made of the circulation of lists of persons' names based on ethnicity and further appropriate action should be taken. Strong efforts should be made to identify undeclared places of detention and to ensure that only bona fide prisoners of war are held in properly notified camps operating in accordance with the Geneva Conventions and the Covenant. Responsibility must be accepted for the acts of the military in other territories as well as in Croatia. Clear instructions should be issued to all military personnel as to their obligations under the Covenant. The foregoing had to be borne in mind in the context of support afforded, directly or indirectly, to local Croatian militia in Bosnia-Herzegovina. Those responsible for violations of human rights should be brought speedily before the courts. In that regard, the existing distinctions between military and civil jurisdictions should be reviewed so that military personnel might be tried and, if found guilty, punished under normal civil jurisdiction.

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HUMAN RIGHTS COMMITTEE

COMMENTS OF THE HUMAN RIGHTS COMMITTEE*

Federal Republic of Yugoslavia (Serbia and Montenegro)

A. Introduction

1. Deeply concerned by recent and current events in the territory of the former Yugoslavia affecting human rights protected under the International Covenant on Civil and Political Rights; noting that all the peoples within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant; and acting under article 40, paragraph 1 (b), of the Covenant; the Committee, on 7 October 1992, requested the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to submit a short report on the following issues in respect of persons and events now coming under its jurisdiction:

(a) Measures taken to prevent and combat the policy of "ethnic cleansing" pursued, according to several reports, on the territory of certain parts of the former Yugoslavia, in relation to articles 6 and 12 of the International Covenant on Civil and Political Rights;

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* Adopted at the 1205th meeting (forty-sixth session), held on 6 November 1992.

(d) Measures taken to combat advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence, in relation to article 20 of the International Covenant on Civil and Political Rights.

2. Pursuant to that request, the Federal Republic of Yugoslavia (Serbia and Montenegro) submitted a special report dated 30 October 1992, which was considered by the Committee at its 1202nd meeting, held on 4 November 1992. The Federal Republic of Yugoslavia (Serbia and Montenegro) was represented by Dr. Konstantin OBRADOVIC, Deputy Federal Minister for Human Rights and Ethnic Minorities; Ms. Sladjana PRICA, Expert, Federal Ministry of Foreign Affairs; Mr. Miroslav MILOSEVIC, Counsellor, Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva; and Mrs. Olga SPASIC, Third Secretary, Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva. The report was taken up and developed by the delegation in its oral statement.

3. The Committee welcomed the delegation, explaining that it regarded the submission of the report by the Government and the presence of the delegation as confirmation that the Federal Republic of Yugoslavia (Serbia and Montenegro) had succeeded, in respect of its territory, to the obligations undertaken under the International Covenant on Civil and Political Rights by the former Socialist Federal Republic of Yugoslavia.

B. Implementation of the Covenant by the State party

4. In its replies, the Federal Government referred exclusively to the situation in the territory of Serbia and Montenegro. It mentioned a number of instances of criminal proceedings taken against persons responsible for violations of individual freedoms (32 cases) and ethnic cleansing (5 cases). The Government affirmed that those were isolated acts and that it was not conducting any policy of ethnic cleansing. It indicated that there was no concentration camp established in its territory. It said it was dismayed by the atrocities committed in certain parts of Croatia and Bosnia and Herzegovina but declared that it could not assume responsibility for acts committed outside its territory and hence beyond its control. In regard to Kosovo, the Government did not dispute its responsibility but attributed the current state of affairs in that region to antagonism, which it was difficult to overcome, between the Serbs and the Albanian "minority".

C. Concerns of the Committee

5. Various concordant sources of information - Mr. T. Mazowiecki, Special Rapporteur of the Commission on Human Rights, Rapporteurs of the Conference on Security and Cooperation in Europe and non-governmental organizations - describe mass arrests, summary and arbitrary executions, enforced or involuntary disappearances, torture, rapes and looting committed by Serbian nationalists both in Croatia (Krajina) and in Bosnia and Herzegovina. It is reported that some 20 camps are controlled by these armed men and that they are holding thousands of civilians, women, children and elderly people in conditions unworthy of the respect due to the human person. Massive violence has been unleashed, inter alia, against Dubrovnik and Vukovar and is still being directed against Sarajevo. The Committee observed that the means

deployed and the interests involved demonstrated the existence of links between the nationalists and Serbia which invalidated the Federal Government's claim to be exempt from responsibility.

6. According to Mr. Mazowiecki, the purpose of these acts is to displace or eliminate Muslims, Croats or other nationalities and thus constitute ethnically homogeneous areas.

7. The Committee strongly deplored this situation and regretted the refusal of the Federal Government to acknowledge its responsibility for such acts on the grounds that they were committed outside its territory.

D. Recommendations

8. The Committee firmly urged the Federal Government to put an end to this intolerable situation for the observance of human rights, and to refrain from any support for those committing such acts, including in territory outside the Federal Republic of Yugoslavia (Serbia and Montenegro). It called upon the Government to show a clear political will and to effectively dissociate itself from the Serbian nationalist movements by totally repudiating their ideology and condemning their schemes. The Committee considers that a show of unwavering firmness on this point would deprive the extremists of support that is essential to them. The Federal Government was invited to do its utmost to foster public awareness of the need to combat national hatred and to crack down forcefully on the perpetrators of violations of individual rights by bringing them to justice. The Committee also recommended that the Federal Government put an end to the repression of the Albanian population in the province of Kosovo and adopt all necessary measures to restore the former local self-government in the province.

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